IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION 5:06ev160

CRUM & FORSTER SPECIALTY INSURANCE COMPANY,)
Plaintiff,)
Vs.) ORDER
TRIPLE J FRAMING, INC.; and WESTFIELD INSURANCE COMPANY,))))
Defendants.)))

THIS MATTER is before the court on the following pending motions:

- (#28) MOTION to Dismiss OR STAY PROCEEDINGS PURSUANT TO 28
 U.S.C. Sec. 2201, ET SEQ., filed by Triple J Framing, Inc.;
- (#32) MOTION for Summary Judgment, filed by Crum & Forster Specialty;
- (#36) MOTION for Summary Judgment, filed by Westfield Insurance Company Response filed;
- (#45) Counter MOTION for Summary Judgment, filed by Tripple J Framing, Inc.;
- (#54) MOTION to Dismiss of for Sanctions filed by Westfield Insurance Company; and
- (#55) MOTION for Sanctions, filed by: Tripple J Framing, Inc.

* * *

The latest round of motions have caused this court a great deal of concern. If,

as alleged, plaintiff failed to attend mediation in South Carolina without permission from this court or from the mediator, substantial sanctions may come into play, which could well include fines, civil contempt, and/or dismissal of plaintiff's claims. The court hopes that such is not the case. In responding to such motions, plaintiff should be prepared to file with the court an affidavit from the mediator indicating that he excused plaintiff from the mediation after providing notice to all counsel of record.

While plaintiff's responses are not due until December 24, 2007, plaintiff should file its responses in an expedited manner, not later than December 14, 2007; likewise, defendants' should file their replies not later than December 20, 2007. Inasmuch as this matter is on for trial in February - - and is the only case remaining for trial during such term - - the court will set all motions now pending for hearing on Friday, January 4, 2008, at 12 noon, in Asheville. The court expects that no further motions will be filed in the interim.

In addition to counsel, all parties shall personally appear at such hearing through a corporate representative with full authority to settle this case. Unless confidence is high that the Pretrial Order of this court has not been violated, personal checkbooks should be brought to the hearing.

ORDER

IT IS, THEREFORE, ORDERED that ALL MOTIONS now pending in this matter are CALENDARED for hearing January 4, 2008, at 12 noon in Asheville. The plaintiff's deadline for filing responses to motions numbered 54 and 55 are

RESET to December 14, 2007, and defendants' replies thereto are **RESET** to December 20, 2007. All counsel of record in this matter are directed to attend this hearing along with a corporate representative with full authority to settle this case.

Signed: December 6, 2007

Dennis L. Howell

United States Magistrate Judge